

**IN THE UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

UNITED STATES OF AMERICA)	
)	
v.)	CASE NO: 2:08-CR-032-MEF
)	
FLORENTINA AVILES-ROSALES)	

UNOPPOSED MOTION TO WITHDRAW GUILTY PLEA

COMES NOW the Defendant, **FLORENTINA AVILES-ROSALES**, by and through undersigned counsel, Michael J. Petersen, and respectfully moves the Court for an Order granting this Motion to Withdraw Guilty Plea pursuant to Federal Rules of Criminal Procedure 11(d)(2)(b). In support of this Motion, Ms. Aviles-Rosales would show the following:

1. The Government, through Assistant United States Attorney Christopher A. Snyder does not oppose this motion.
2. Ms. Aviles-Rosales previously appeared before this Court on June 12, 2008 for a sentencing hearing in the instant matter.
3. At that sentencing hearing, this matter was continued in the interest of justice on an unopposed oral motion by undersigned counsel.
4. Undersigned counsel has consulted with Assistant United States Attorney Christopher Snyder and has been informed that the government has received a verbal approval for a waiver of the Ashcroft Memo in this case.
5. Generally, the decision to permit the withdrawal of a guilty plea is committed to the sound discretion of the district court. *See United States v. Buckles*, 843 F.2d 469, 471 (11th

Cir.1988), *cert. denied*, 490 U.S. 1099 (1989). Pursuant to Rule 11(d)(2)(B), F.R.Cr.P., Ms. Aviles-Rosales can withdraw her plea of guilty before sentencing if she can show a fair and just reason for requesting the withdrawal. *See United States v. Siegel*, 102 F.3d 477, 481 (11th Cir, 1996). Allowing Ms. Aviles-Rosales to withdraw her present plea of guilty to aggravated identity theft and enter a plea to a non-mandatory minimum count will be in the interests of justice and a fair and just reason for the withdrawal.

6. With Ms. Aviles-Rosales' knowledge and consent, undersigned counsel entered into negotiations with the Government and fully expects this matter to resolve itself through a negotiated plea which will provide for a reasonable sentence in this matter.

7. Counsel for the government and undersigned counsel will be prepared to go forward with a hearing on this motion, an entry of a plea to a different count, and a sentencing hearing on July 11, 2008, the date presently scheduled for sentencing.

WHEREFORE, for the foregoing reasons, Ms. Aviles-Rosales asserts she has shown a fair and just reason for requesting the withdrawal, and respectfully requests that this Court grant her Motion and allow her to withdraw her guilty plea.

Dated this 8th day of July, 2008.

Respectfully submitted,

s/ Michael J. Petersen

MICHAEL J. PETERSEN

Assistant Federal Defender

201 Monroe Street, Suite 407

Montgomery, Alabama 36104

Phone: (334) 834-2099

Fax: (334) 834-0353

E-mail: michael_petersen@fd.org

AL Bar Code: ASB-5072-E48M

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CERTIFICATE OF SERVICE

I hereby certify that on July 8, 2008, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

Christopher A. Snyder, Esq.
Assistant United States Attorney
131 Clayton Street
Montgomery, AL 36104

Respectfully submitted,

s/ Michael J. Petersen
MICHAEL J. PETERSEN
Assistant Federal Defender
201 Monroe Street, Suite 407
Montgomery, Alabama 36104
Phone: (334) 834-2099
Fax: (334) 834-0353
E-mail: michael_petersen@fd.org
AL Bar Code: ASB-5072-E48M